

REMARKS

The Examiner is thanked for the due consideration given the application. The specification has been amended to insert headings.

Claims 1-20 are pending in the application. Claims 1-11 have been amended to improve their language in a non-narrowing fashion. Claims 12-20 are new. New claim 12 finds support in Figure 1 and in the paragraph bridging pages 9 and 10 of the specification. New claim 13 generally sets forth subject matter found in claims 1 and 12. New claims 14-20 generally correspond to subject matter found in claims 2-8.

No new matter is believed to be added to the application by this amendment.

Objections to the Claims

Claims 7 and 10 have been objected to as containing informalities.

Regarding claim 7, the Official Action asserts that line 3 recites "formed on said pulleys," which has insufficient antecedent basis. However, claim 7 depends on amended claim 6, which recites "a plurality of pulleys."

Regarding claim 10, the comments in the Official Action have been considered, and claim 10 has been amended to recite "a frame."

It is accordingly respectfully requested that the objections to the claims be withdrawn.

Rejections Based on ANCRENAZ

Claims 1-3, 5, 6, and 8-11 have been rejected under 35 USC §102(b) as being anticipated by ANCRENAZ (U.S. Patent 5,067,358). Claim 4 has been rejected under 35 USC §103(a) as being unpatentable over ANCRENAZ in view of GARNJOST et al. (U.S. Patent 5,903,077). Claim 7 has been rejected under 35 USC §103(a) as being unpatentable over ANCRENAZ in view of BURGESS, JR. et al. (U.S. Patent 5,584,375). This rejection is respectfully traversed.

The present invention pertains to an antivibration device that is illustrated, by way of example, in Figure 1 of the application, which is reproduced below.

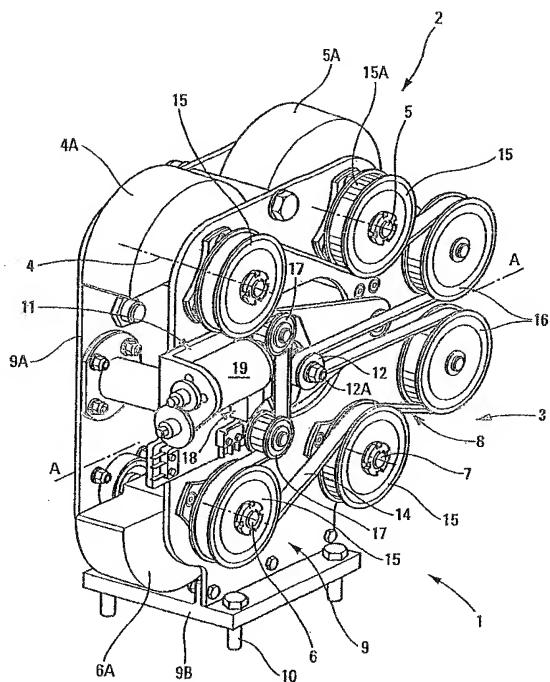


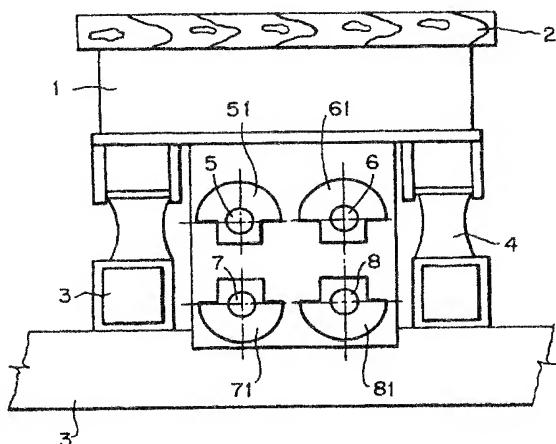
Fig. 1

Figure 1 shows sets 2, 3 arranged about an axis of symmetry. A. Set 2 includes rotors 2, 4 and set 3 includes rotors 6, 7. Controllable moving equipment 11 carries a drive system 8.

Claim 1 of the present invention recites: "controllable moving equipment (11) carrying said drive system (8) and capable of sliding along said axis of symmetry to vary a phase offset between the eccentric flyweight rotors of the sets."

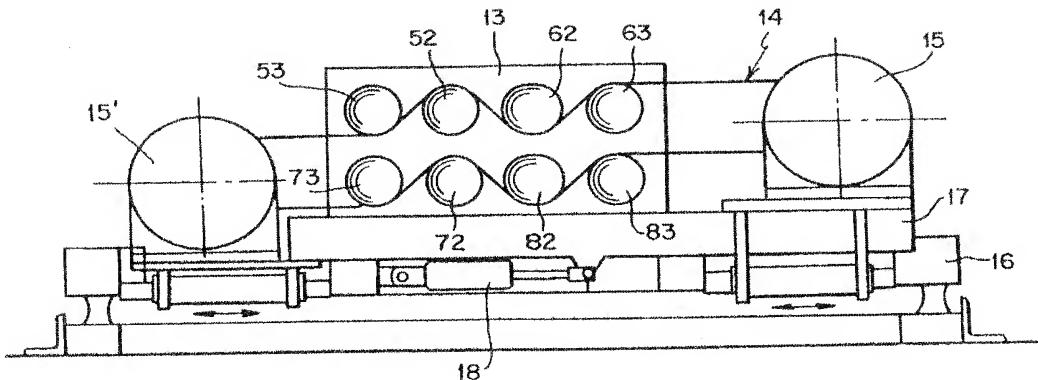
ANCRENAZ pertains to a vibration table for the manufacture of concrete products. The Official Action refers to Figure 1 of ANCRENAZ, which is reproduced below.

FIG. 1



The vibrating table of ANCRENAZ can also be seen in Figure 3 of the reference, which is reproduced below.

FIG. 3



ANCRENAZ's vibration device includes at least two sets each having two identical rotors (52, 62, 72, 82) with respective eccentric flyweights (51, 61, 71, 61, column 3, lines 29-30). The sets being are disposed symmetrically about an axis of symmetry, and the axes of rotation of the rotors are parallel to one another and orthogonal to the axis of symmetry, and a drive system (14) drives the device. The device includes controllable moving equipment (15, 15) carrying the drive system (14), and controllable moving equipment is supported by a slide (17) capable of sliding transversally in view of the rotor along an axis which is parallel but distinct to the axis of symmetry. The drive system includes a motor (15) for rotating the rotors, having its axis disposed perpendicularly to the axis of symmetry, and driving an endless connection.

Consequently, ANCRENAZ fails to describe a controllable moving equipment which slides along the axis of symmetry, but an equipment which slides along a slide located under the rotors.

Also, the motor of ANCRENAZ is not disposed between the sets of rotors. Cf. claims 12 and 13 of the present invention.

Regarding claim 2, the Official Action acknowledges that ANECRAZ is silent with regard to phase offset ϕ between the eccentric flyweight rotors disposed symmetrically facing each other (4, 6; 5, 7) about the axis of symmetry is equal to $2d/r$, where d corresponds to the linear displacement of said moving equipment (11) along said axis of symmetry, and r corresponds to an identical winding radius of the endless connection about the centers of said rotors. The Official Action nonetheless asserts that this ratio of $\phi=2d/r$ would be inherent from the distances.

However, deriving a ratio where one has not been explicitly set forth has been found to be impermissible. See *Harries v. Air King Products Co*, 183 F.2d 158, 86 U.S.P.Q. 57 (2d Cir. 1950).

In *Harries*, the length and width of an electron streams in an electron tube were used to extrapolate a ratio, even though the specification did not once mention the ratio of the length of the electron stream to its cross section. Judge Learned Hand found: "We hold that the original specifications were for long streams, regardless of the ratio of length to cross-section, because the ratio was a later and unauthorized interpolation into the application as originally filed." 183 F.2d at 159. Judge Learned Hand additionally stated:

Even though it were possible that a person skilled in the art might see that it was not absolute length, but the ratio of length to cross-section that was

important, we should not be justified in validating such an expansion of the original; it is the sort of artful extrapolation against which courts have over and over set their faces. 183 F.2d at 160.

In regards to the assertion of inherency, even if one assumes *arguendo* that the ratio $\phi=2d/r$ is inherent in ANCRENAZ, this purported inherency would be no bar to patentability.

Accidental results not intended and not appreciated do not constitute anticipation. *Eibel Processing Co. v. Minnesota and Ontario Paper Co.*, 261 US 45 (1923); *Mycogen Plant Science, Inc. v. Monsanto Co.*, 243 F.3d 1316, 1336, 5 USPQ2d 1030, 1053 (2001). Further, the Federal Circuit stated in *In re Robertson*, that "to establish inherency, extrinsic evidence must make clear that the missing descriptive matter was necessarily present in the thing described in the reference, and would be so recognized by persons with ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a set of circumstances is not sufficient." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949 (Fed. Cir. 1999). Further, it has been held that the mere fact that a certain thing may result from a given set of circumstances is not sufficient, and occasional results are not inherent. *MEHL/Biophile International v. Milgram*, 192 F.3d 1362, 1365, 52 USPQ2d 1303 (Fed. Cir. 1999).

Concerning claim 5, ANCRENAZ discloses a slide (17) disposed behind the rotors and not a carriage which slides along the axis of symmetry.

Concerning claim 8, ANJCRENAZ describes a second moving equipment (15') and not a tensioning wheel.

Concerning claim 9, the application claims two sets carried by a frame, the controllable moving equipment being slidably mounted on the frame.

In contrast, ANCRENAZ explains that the controllable moving equipment is arranged on a chassis (16) and not on the carter (13) which carried the sets of rotors.

As a result, ANCRENAZ fails to disclose at least each and every element of claim 1 of the present invention, where controllable movable equipment slides along the axis of symmetry. ANCRENAZ thus fails to anticipate claim 1 of the present invention. Claims depending upon claim 1 are patentable for at least the reasons set forth above.

Regarding unpatentability, the teachings of GARNJOST et al. and BURGESS, JR. et al. fail to address the deficiencies of ANCRENAZ discussed above. One of ordinary skill and creativity would thus fail to produce a claimed embodiment of the present invention from a knowledge of ANCRENAZ and these secondary

references, and a prima facie case of unpatentability has thus not been made.

These rejections are believed to be overcome, and withdrawal thereof is respectfully requested.

Conclusion

The Examiner is thanked for considering the Information Disclosure Statement filed January 27, 2005 and for making an initialed PTO-1449 Form of record in the application.

Prior art of record but not utilized is believed to be non-pertinent to the instant claims.

The objections and rejections are believed to have been overcome, obviated or rendered moot and no issues remain. The Examiner is accordingly respectfully requested to place the application in condition for allowance and to issue a Notice of Allowability.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment

to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Robert E. Goozner, Reg. No. 42,593
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

REG/fb